

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): James F. Zucherman, et al.

Appl. No.: 10/685,134

Confirm. No.: 4485

Filed: October 14, 2003

Title: TOOLS FOR IMPLANTING AN ARTIFICIAL  
VERTEBRAL DISK AND METHOD

PATENT APPLICATION

Art Unit: 3731

Examiner: Jessica R. Baxter

Customer No. 23910

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 24, 2005.

*S. Bhattacharya*

(Attorney Signature)

Suvashis Bhattacharya, Reg. No. 46,554

Signature Date: February 24, 2005

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made, that the material is considered prior art, or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

***Enclosed with this statement are the following:***

- ☒ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- ☒ The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at pac/dapp/opla/preognotice/idswouscopies.htm, copies of cited U.S. patents and publications are not enclosed. Copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR §1.98(a)(2), as still required.

- The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at [pac/dapp/opla/preognotice/idswouscopies.htm](http://pac/dapp/opla/preognotice/idswouscopies.htm), copies of cited U.S. patents and publications are not enclosed. Additionally, copies of cited foreign patent documents and non-patent literature, items marked with an asterisk(\*), are enclosed in accordance with 37 CFR §1.98(a)(2), as still required. The non-asterisked items were previously submitted in an Information Disclosure Statement by applicant in a parent application (see legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, which Information Disclosure Statement complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).
  
- The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at [pac/dapp/opla/preognotice/idswouscopies.htm](http://pac/dapp/opla/preognotice/idswouscopies.htm), copies of cited U.S. patents and publications are not enclosed. Additionally, all cited foreign patent documents and non-patent literature are not enclosed because they were previously submitted in an Information Disclosure Statement by applicant in a parent application (see legend at end of Form PTO-1449), from which benefit under 35 USC §120 is claimed, which Information Disclosure Statement complies with the September 8, 2000 or subsequent revision of 37 CFR §1.98(a-c), as allowed under 37 CFR §1.98(d)(1).
  
- ✓ If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 CFR §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 CFR §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).
  
- ***PTA Statement under 37 C.F.R. §1.704(d).*** Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

***This statement should be considered because:***

- **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:
  - (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);  
-- OR --
  - (2) It is being filed within 3 months of entry of a national stage;  
-- OR --
  - (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
  - (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

✓ **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (*check at least one of the following*) --

- (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).

-- OR --

- ✓ (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— **37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the Issue Fee;

-- AND --

- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);

-- AND --

- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

Date: 2/24/05

By: S. Bhattacharya  
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✓ 37 C.F.R. §1.97(c). Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

(1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

       (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).

-- OR --

✓ (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

       37 C.F.R. §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

(1) It is being filed on or before payment of the Issue Fee;

-- AND --

(2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);

-- AND --

(3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

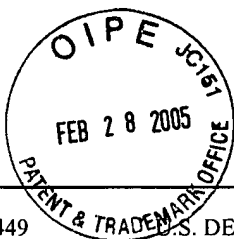
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Form PTO-1449 (Substitute)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		Attorney Docket Number <b>KLYCD-05009US1</b>		Application Number <b>10/685,134</b>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>				First Named Inventor <b>James F. Zucherman</b>			
				Filing Date <b>October 14, 2003</b>		Art Unit <b>3731</b>	
<b>U.S. PATENTS</b>							
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	1.	2,456,806	Dec 21, 1948	E. B. Wolffe			
	2.	4,369,769	Jan 25, 1983	Edwards			
	3.	4,401,112	Aug 30, 1983	Rezaian			
	4.	4,479,491	Oct 30, 1984	Martin			
	5.	4,501,269	Feb 26, 1984	Bagby			
	6.	4,553,273	Nov 19, 1984	Wu			
	7.	4,554,914	Nov 26, 1985	Kapp et al			
	8.	4,599,084	Jul 8, 1986	Nashef			
	9.	4,599,086	Jul 8, 1986	Doty			
	10.	4,636,217	Jan 13, 1987	Ogilvie			
	11.	4,657,550	Apr 14, 1987	Daher			
	12.	4,685,447	Aug 11, 1987	Iversen et al			
	13.	4,696,290	Sep 29, 1987	Steffee			
	14.	4,714,469	Dec 22, 1987	Kenna			
	15.	4,743,256	May 10, 1988	Brantigan			
	16.	4,790,303	Dec 13, 1988	Steffee			
	17.	4,834,757	May 30, 1989	Brantigan			
	18.	4,904,261	Feb 27, 1990	Dove et al.			
	19.	4,932,975	Jun 12, 1990	Main et al.			
	20.	4,936,848	Jun 26, 1990	Bagby			
	21.	4,961,740	Oct 9, 1990	Ray et al.			

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	22.	4,969,888	Nov 13, 1990	Scholten et al.			
	23.	5,015,247	May 14, 1991	Michelson			
	24.	5,026,373	Jun 25, 1991	Ray et al.			
	25.	5,055,104	Oct 8, 1991	Ray			
	26.	5,059,193	Oct 22, 1991	Kuslich			
	27.	5,059,194	Oct 22, 1991	Michelson			
	28.	5,108,442	Apr 28, 1992	Smith			
	29.	5,167,662	Dec 1, 1992	Hayes et al.			
	30.	5,180,381	Jan 19, 1993	Aust et al.			
	31.	5,192,327	Mar 9, 1993	Brantigan			
	32.	5,263,953	Nov 23, 1993	Bagby			
	33.	5,290,312	Mar 1, 1994	Kojimoto et al.			
	34.	5,313,962	May 24, 1994	Obenchain			
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	36.	5,336,223	Aug 9, 1994	Rogers			
	37.	5,350,397	Sep 27, 1994	Palermo et al.			
	38.	5,354,302	Oct 11, 1994	Ko			
	39.	5,360,430	Nov 1, 1994	Lin			
	40.	5,366,508	Nov 22, 1994	Brekke			
	41.	5,370,693	Dec 6, 1994	Kelman et al.			
	42.	5,375,823	Dec 27, 1994	Navas			
	43.	5,383,884	Jan 24, 1995	Summers			
	44.	5,395,317	Mar 7, 1995	Kambin			
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	46.	5,397,364	Mar 14, 1995	Kozak et al.			

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	47.	5,415,704	May 16, 1995	Davidson			
	48.	5,423,816	Jun 13, 1993	Lin			
	49.	5,423,817	Jun 13, 1995	Lin			
	50.	5,425,772	Jun 20, 1995	Brantigan			
	51.	5,425,777	Jun 20, 1995	Sarkisian et al.			
	52.	5,431,658	Jul 11, 1995	Moskovich			
	53.	5,439,464	Aug 8, 1995	Shapiro			
	54.	5,443,514	Aug 22, 1995	Steffee			
	55.	5,443,515	Aug 22, 1995	Cohen et al.			
	56.	5,445,639	Aug 29, 1995	Kuslich et al.			
	57.	5,456,722	Oct 10, 1995	McLeod et al.			
	58.	5,458,638	Oct 17, 1995	Kuslich et al.			
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	60.	5,480,401	Jan 2, 1996	Navas			
	61.	5,480,442	Jan 2, 1996	Bertagnoli			
	62.	5,484,437	Jan 16, 1996	Michelson			
	63.	5,489,307	Feb 6, 1996	Kuslich et al.			
	64.	5,489,308	Feb 6, 1996	Kuslich et al.			
	65.	5,505,732	Apr 9, 1996	Michelson			
	66.	5,522,899	Jun 4, 1996	Michelson			
	67.	5,531,793	Jul 2, 1996	Kelman et al.			
	68.	5,534,023	Jul 9, 1996	Henley			
	69.	5,534,031	Jul 9, 1996	Matsuzaki et al.			
	70.	5,540,689	Jul 30, 1996	Sanders et al.			
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	73.	5,571,190	Nov 5, 1996	Ulrich et al.			
	74.	5,571,192	Nov 5, 1996	Schönhöffer			
	75.	5,591,235	Jan 7, 1997	Kuslich			
	76.	5,593,409	Jan 14, 1997	Michelson			
	77.	5,599,279	Feb 4, 1997	Slotman et al.			
	78.	5,601,556	Feb 11, 1997	Pisharodi			
	79.	5,603,713	Feb. 18, 1997	Aust et al.			
	80.	5,609,635	Mar 11, 1997	Michelson			
	81.	5,609,636	Mar 11, 1997	Kohrs et al.			
	82.	5,620,458	Apr 15, 1997	Green et al.			
	83.	5,645,592	Jul 8, 1997	Nicolais et al.			
	84.	5,645,598	Jul 8, 1997	Brosnahan, III			
	85.	5,653,761	Aug 5, 1997	Pisharodi			
	86.	5,653,762	Aug 5, 1997	Pisharodi			
	87.	5,658,335	Aug 19, 1997	Allen			
	88.	5,658,336	Aug 19, 1997	Pisharodi			
	89.	5,658,337	Aug 19, 1997	Kohrs et al.			
	90.	5,669,909	Sep 23, 1997	Zdeblick et al.			
	91.	5,683,463	Nov 4, 1997	Godefroy et al.			
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	94.	5,697,889	Dec 16, 1997	Slotman et al.			
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	97.	5,702,449	Dec 30, 1997	McKay			
	98.	5,702,455	Dec 30, 1997	Saggar			
	99.	5,716,415	Feb 10, 1998	Steffee			
	100.	5,741,253	Apr 21, 1998	Michelson			
	101.	5,755,732	May 26, 1998	Green et al.			
	102.	5,766,252	Jun 16, 1998	Henry et al.			
	103.	5,772,661	Jun 30, 1998	Michelson			
	104.	5,776,196	Jul 7, 1998	Matsuzaki et al.			
	105.	5,776,199	Jul 7, 1998	Michelson			
	106.	5,782,830	Jul 21, 1998	Farris			
	107.	5,782,919	Jul 21, 1998	Zdeblick et al.			
	108.	5,797,909	Aug 25, 1998	Michelson			
	109.	5,800,438	Sep 1, 1998	Tuke et al.			
	110.	5,800,550	Sep 1, 1998	Sertich			
	111.	5,836,948	Nov 17, 1998	Zucherman et al.			
	112.	5,860,973	Jan 19, 1999	Michelson			
	113.	5,860,977	Jan 19, 1999	Zucherman et al.			
	114.	5,876,404	Mar 2, 1999	Zucherman et al.			
	115.	5,885,292	Mar 23, 1999	Moskovitz et al.			
	116.	5,885,299	Mar 23, 1999	Winslow et al.			
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	119.	5,891,147	Apr 6, 1999	Moskovitz et al.			
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	121.	5,895,426	Apr 20, 1999	Scarborough et al.			

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	122.	5,895,427	Apr 20, 1999	Kuslich et al.			
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	125.	5,945,115	Aug 31, 1999	Dunn et al.			
	126.	5,961,554	Oct 5, 1999	Jamson et al.			
	127.	5,980,572	Nov 9, 1999	Kim et al.			
	128.	5,984,967	Nov 16, 1999	Zdeblick et al.			
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	130.	6,004,573	Dec 21, 1999	Rathi et al.			
	131.	6,005,162	Dec 21, 1999	Constantz			
	132.	6,019,792	Feb 1, 2000	Cauthen			
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	134.	6,039,761	Mar 21, 2000	Li et al.			
	135.	6,042,582	Mar 28, 2000	Ray			
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	137.	6,045,580	Apr 4, 2000	Scarborough et al.			
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	140.	6,080,155	Jun 27, 2000	Michelson			
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	143.	6,086,613	Jul 11, 2000	Camino et al.			
	144.	6,090,112	Jul 18, 2000	Zucherman et al.			
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	148.	6,102,950	Aug 15, 2000	Vaccaro			
	149.	6,111,164	Aug 29, 2000	Rainey et al.			
	150.	6,113,638	Sep 5, 2000	Williams et al.			
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	152.	6,120,502	Sep 19, 2000	Michelson			
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	154.	6,123,705	Sep 26, 2000	Michelson			
	155.	6,126,689	Oct 3, 2000	Brett			
	156.	6,127,597	Oct 3, 2000	Beyar et al.			
	157.	6,129,763	Oct 10, 2000	Chauvin et al.			
	158.	6,132,430	Oct 17, 2000	Wagner			
	159.	6,136,001	Oct 24, 2000	Michelson			
	160.	6,149,650	Nov 21, 2000	Michelson			
	161.	6,149,652	Nov 21, 2000	Zucherman et al.			
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	163.	6,152,926	Nov 28, 2000	Zucherman et al.			
	164.	6,156,038	Dec 5, 2000	Zucherman et al.			
	165.	6,159,215	Dec 12, 2000	Urbahns et al.			
	166.	6,176,882 B1	Jan 23, 2001	Biedermann et al.			
	167.	6,179,874 B1	Jan 30, 2001	Cauthen			
	168.	6,183,471 B1	Feb 6, 2001	Zucherman et al.			
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	170.	6,193,757 B1	Feb 27, 2001	Foley et al.			
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	173.	6,224,595 B1	May 1, 2001	Michelson			
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	175.	6,228,118 B1	May 8, 2001	Gordon			
	176.	6,231,609 B1	May 15, 2001	Mehdizadeh			
	177.	6,234,705	May 22, 2001	Troxell			
	178.	6,235,030 B1	May 22, 2001	Zucherman et al.			
	179.	6,238,397 B1	May 29, 2001	Zucherman et al.			
	180.	6,241,769 B1	Jun 5, 2001	Nicholson et al.			
	181.	6,241,770 B1	Jun 5, 2001	Michelson			
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	183.	6,245,072 B1	Jun 12, 2001	Zdeblick et al.			
	184.	6,245,108	Jun 12, 2001	Biscup			
	185.	6,261,296	Jul 17, 2001	Aebi et al.			
	186.	6,264,655 B1	Jul 24, 2001	Pisharodi			
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	188.	6,264,695 B1	Jul 24, 2001	Stoy			
	189.	6,270,498 B1	Aug 7, 2001	Michelson			
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	194.	6,296,664 B1	Oct 2, 2001	Middleton			
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	196.	6,302,914 B1	Oct 16, 2001	Michelson			

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	197.	6,309,421 B1	Oct 30, 2001	Pisharodi			
	198.	6,311,562 B1	Nov 6, 2001	Hanada			
	199.	6,315,795 B1	Nov 13, 2001	Scarborough et al.			
	200.	6,315,797 B1	Nov 13, 2001	Middleton			
	201.	6,325,827 B1	Dec 4, 2001	Lin			
	202.	6,332,882 B1	Dec 25, 2001	Zucherman et al.			
	203.	6,332,883 B1	Dec 25, 2001	Zucherman et al.			
	204.	6,342,074 B1	Jan 29, 2002	Simpson			
	205.	6,348,071 B1	Feb 19, 2001	Steffee et al.			
	206.	6,350,283 B1	Feb 26, 2001	Michelson			
	207.	6,364,880 B1	Apr 2, 2002	Michelson			
	208.	6,368,350 B1	Apr 9, 2002	Erickson et al.			
	209.	6,371,984	Apr 16, 2002	Van Dyke et al.			
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	211.	6,371,989 B1	Apr 16, 2002	Chauvin et al.			
	212.	6,379,355 B1	Apr 30, 2002	Zucherman et al.			
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	214.	6,383,221 B1	May 7, 2002	Scarborough et al.			
	215.	6,391,030 B1	May 21, 2002	Wagner et al.			
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	217.	6,395,030	May 28, 2002	Songer et al.			
	218.	6,395,031	May 28, 2002	Foley et al.			
	219.	6,395,032	May 28, 2002	Gauchet			
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\*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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